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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA
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10 DARYL ROGERS,

11 Plaintiff,

12 v.

13 HOWARD, et al.,

14 Defendants.

CASE NO. 3:21-CV-5311-RSL-DWC

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

15 Plaintiff Daryl Rogers, who is proceeding *pro se* and *in forma pauperis* in this 42 U.S.C.
16 § 1983 action, filed a request for Court-appointed counsel. Dkt. 4. No constitutional right to
17 appointed counsel exists in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir.
18 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995)
19 (“[a]ppointment of counsel under this section is discretionary, not mandatory”). However, in
20 “exceptional circumstances,” a district court may appoint counsel for indigent civil litigants
21 pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d
22 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998). To decide
23 whether exceptional circumstances exist, the Court must evaluate both “the likelihood of success
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1 on the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
2 complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.
3 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead
4 facts showing she has an insufficient grasp of her case or the legal issues involved and an
5 inadequate ability to articulate the factual basis of his claims. *Agyeman v. Corrections Corp. of*
6 *America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

7 In the Motion, Plaintiff states he is legally blind, physically impaired, and incarcerated.
8 Dkt. 4. As a result, he is limited in his ability to litigate this case. *Id.* Plaintiff has not shown, nor
9 does the Court find, this case involves complex facts or law. Plaintiff has also not shown an
10 inability to articulate the factual basis of his claims in a fashion understandable to the Court, nor
11 has he shown he is likely to succeed on the merits of this case. In fact, at this time, the Court has
12 declined to serve Plaintiff’s Complaint. *See* Dkt. 7. Additionally, “Plaintiff’s incarceration and
13 limited access to legal materials are not exceptional factors constituting exceptional
14 circumstances that warrant the appointment of counsel. Rather, they are the type of difficulties
15 encountered by many *pro se* litigants.” *Dancer v. Jeske*, 2009 WL 1110432, *1 (W.D. Wash.
16 Apr. 24, 2009). As such, the Court finds Plaintiff has failed to show the appointment of counsel
17 is appropriate at this time. Therefore, Plaintiff’s Motion requesting Court-appointed counsel
18 (Dkt. 4) is denied.

19 Dated this 14th day of May, 2021.

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22 David W. Christel
23 United States Magistrate Judge
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